G.R.S. IX-5]

Previous references.

SFA 179-19 Bdle 6
SFA 163-20 Bdle 4
SFA 66-21 Bdle 4

Later references.

SFA 85-22 Bdle 4

1921.
SFA

File No. 97-21

Serial Nos. 1 to 2

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 2

Part B for Aug 1922

SUBJECT

Gratuity to Abdal Kareem, late Duffedar Comptroller's Office

Filed with G.O. No. 7F 1114-63 dt 30.8.1922 directing that a new article may be introduced in the Manual to regulate the grant of pension or gratuity in such cases.

By order

G. R. S. III-2.

General and Revenue Secretariat.

S & A File No. 97 of 1921.

3970

Serial No.

1 From.

The Comptroller.

978/Pen dy 30.3.22.

States that Abdul Kareem, late Duffedar of his office went on leave from the 9th and died on the 12th January 1922 and requests orders of Govt to sanction the gratuity admissible to his heirs.

went on leave on 9-1-22 died on 12-1-22

The case is similar to that of Seethalegra of S. H. Treasury and that of Lakshmiah of the Revenue Commissioner's Office in both of which cases the request was denied. In view however of the precedent quoted, it is for orders, whether the gratuity recommended may be sanctioned as a special case.

Subd for orders.

SRS

7.4. The Compt reports that the petitioners case is similar to that of Mastan Brij whose gratuity was sanctioned in Govt. Nr. 71-2/S&A 179-19 dy 3.7.20. The gratuity of Rs 246-8-0 reported to be due to the petitioner may therefore be sanctioned to the petitioner the heirs of the deceased petitioner

S&A 179-19 Rs 1106

NOTE—Contn. sheet.

H Secy

Serial No.

The facts of this case are as follows :

One, Abdul Careem, a Duffedar in the Office of the Comptroller, obtained leave from 9th January 1922 and submitted a petition to the Dewan on the next day in which he represented that he was very unwell and that he did not expect to return to duty or survive his illness and requested that the gratuity admissible for his service might be sanctioned to him. On the 12th of the same month he died. The Comptroller has submitted this case for orders and has cited as a precedent a case in which a gratuity was sanctioned in somewhat similar circumstances.

Under the Pension Regulations, an " invalid" pension or gratuity is admissible on compliance with the following conditions :-

(1) The claim should be supported by a medical certificate of permanent incapacity for public service, and

(2) The claimant should be formally discharged by the authority concerned with a view to retirement.

Neither of these conditions is formally fulfilled in this case. Substantially, however, incapacity for service is established by death itself, and as for discharge from duty, he had been relieved of it when he went on leave. The second condition is not so important as the first, as the rules contemplate ~~retirement of officers~~

NOTE—Contn. sheet.

Serial No.

retirement of officers while they are on leave: vide articles 486 and the explanation to 532, Mysore Service Regulations.

V In the precedent quoted by the Comptroller, circumstances were almost the same. The only difference was that the Head of the Office had ordered the production of a medical certificate with a view to settle the question of retirement of the applicant but the latter died before producing such certificate. In the presrnt case, the Head of the Office did not direct the production of a medical certificate and the applicant himself reported the serious condition of his health and died two days afterwards.

V The disposal of cases of this kind has not been uniform. The case of Mastan Khan quoted by the Comptroller appeared to me to be deserving of consideration, when I noted upon it, and the gratuity recommended was sanctioned by the Dewan. A subsequent case (of Lakshmiah of the Revenue Commissioner's Office) T of a similar nature was differently dealt with and in dealing with it, I was influenced by the case of W Seethabyra which I remembered at the time and which was somewhat different and the concession shown in the case of Mastan Khan was overlooked. It is necessary to arrive at a general understanding for settling claims of this kind. When an officer takes leave on

Serial No.

medical certificate, applies for leave and dies subsequently, it seems to me that the conditions the grant of invalid pension or gratuity are fulfilled in essence, altnough the formalities prescribed by the code are wanting. The grant of pension or gratuity admissible in such cases appears me to be in harmony with the intention of the pension rules and it would be well to formally recognise the claim of such cases by removing the doubt which the rules, as they now stand, create. Of the three classes of pensions and gratuities allowable under the rules, claims of those coming under the categories of " superannuation " and " retiring " would be recognised more readily than those coming under the class " invalid". Supposing an officer who has rendered 30 years' service or attained the age of 55 years, expresses his desire to retire, his wish is invariably compiled with. Just as officers' desire is the determining factor in the case of these two classes of pension, incapacity for further service is the corresponding factor in the case of invalid pensions and gratuities and there is no better proof of the existence of such factor in cases of the kind under consideration than death itself.

If the above view is approved, the following

Serial No.

rule may be inserted :

" 306 A. - If an officer applies, while on leave
"of any kind taken on account of illness, for -
"retirement on the ground of incapacity for further
"service and dies before producing the certificate
"prescribed in this Section to support his request
"for retirement, his case will be dealt with as if
"he has produced such certificate, provided the -
"head of the office certifies that he has no reason
"to believe that the applicant's illness or death
"was due to irregular or intemperate habits."

If this rule is sanctioned, I would suggest that the benefit of it may be given to the cases of - Seethabyra and Lakshmiah and also of Abdul Careem now under consideration.

SR/1

DEWAN'S OFFICE.
Recd. on JUL 3 1922
Reg. No. 45

Dewan) I agree with the H. Sec. was right
5/7/22
Minute
here ought to be

This comes under c (cause) xiii of Scheduled Subjects and may therefore be ordered to be circulated. A D&W note be put up after circulation
Dewan) Y&L

DEWAN'S OFFICE.
Recd. on JUL 6 1922
Reg. No. 130

6/7/22 I agree
12-7-22

NOTE—Contn. sheet.

CS 8/7/22 To the Chief Secy
7/7
7.7.22

3670
Jb.

6

(For Disposal by Circulation) No. C. 21

.....1922.

GENERAL AND REVENUE SECRETARIAT.

COUNCIL MATTER.

SUBJECT.

Insertion of a new article 305 A in the Mysore Service Regulations re. pension to officers and giving the benefit thereof to the cases of -

(1) Abdul Kareem, late Duffedar of the Comptroller's Office.
(2) Peon Lakshmiah of the Revenue Commissioner's Office and
(3) Seetabyrappa, Gollar, State Huzur Treasury.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

Chief *Secretary to Government.*

10th July 1922.

Extraordinary Member of Council. 15.7.22.

355-358. 11.7.22 First Member of Council. Opinion recorded 12.7.22

362 12.7.22 Second Member of Council. 12/7

WD 2670—GPB—1,000—11-5-[illegible]

For further action.
Financial Secy. with Compliments
15/7

Exemption of S.M. 19/7/22

G. R. S. III-2.

General and Revenue Secretariat.

SA File No. 97 of 1921.

7

Serial No.

Draft Subn note is sent up.

SRS
21.7.

DEWAN'S OFFICE.
Recd. on JUL 24 1922
Reg. No. 597

NOTE—Contn. sheet.

4

Submitted to His Highness.

E, W&F

The three menials mentioned in the margin expressed their desire to retire on grounds of ill-health, went on leave an account of inability to serve and died before medical certificate could be produced. These cases have suggested the need for a general rule for disposing of such claims.

(1) Abdul Kareem, late Duffedar of the Comptroller's office.

(2) Peon Lakshmiah of the Revenue Commissioner's office.

(3) Seetha byra, Gollar, State Huzur Treasury.

2. The grant of the pension or gratuity admissible in such cases is in harmony with the intention of the pension rules, although the formalities prescribed in the Mysore Service Regulations are wanting. Just as the Officers' desire is the determining factor under Optional "Superannuation" and "Retiring" pensions, incapacity for further service is the corresponding factor in the case of "Invalid" pensions and there is no better proof of such factor in cases of the kind under consideration than death itself.

3. It is therefore proposed to introduce a new article 306 A in the Mysore Service Regulations as under, to regulate the grant of pension or gratuity in such cases in future:

> "306 A.-If an officer applies, while on leave of any kind taken on account of illness, for retirement on the ground of incapacity for further service and dies before producing the certificate prescribed in this Section to support his request for retirement, his case will be dealt with as if he has produced such certificate, provided the head of the office certifies that he has no reason to believe thatthe applicant's illness or death was due to irregular or intemperate habits."

4. It is also proposed to give the benefit of the new rule to the three cases referred to above.

Pr. 45 K/6 & Office Note

5. The Members of Council are agreeable to these proposals and I solicit His Highness' gracious approval.

Bangalore,
25th July 1922.

25 JUL 1922

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Introduction of a new article 306 A in the Mysore Service Regulations to regulate the grant of Invalid pensions.

Order.

~~KRW~~

27/7/22

No 99.

Hoey 7

31 Jul ' 22

3670/R

G. R. S. III-2.]

General and Revenue Secretariat. | File No. | of 1922-23

Serial No.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretari s concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to the Members of Council for perusal of His Highness' orders ~~before~~ / after issue of orders. (*Vide* Rules 31, 33 and 34 or the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Govt.

Through the Secretary to Government,
.....Financial.....Department.

5/8/22

1232-172
8.8.22

FIRST MEMBER OF COUNCIL

9.8.22

989
9.8.22

SECONDMEMBER OF COUNCIL

10/8/22

THIRD MEMBER OF COUNCIL.

Please put up draft order earlier than the next meeting.
11/8/22

NOTE- -Contn sheet.

WD 923—GPB—500—3-11-21

Financial Secy. with Compliments.

3670
Je

G. R. S. III-2]

General and Revenue Secretariat.	SJA File No. 97 of 1921.

Serial No.	
	Subd with draft SRS 12.8. BM. 12/8/22
	Je Secy)
	16/8
	13 8.22
2	Je 1114-63 dt 30.8.1922 to the Comptroller. the Revenue Commissioner + other Heads of Depts

NOTE—Contn. sheet.

Please address all future communications to the Comptroller to the Govt. of H. H. the Maharaja of Mysore.
In reply to this Comm., please refer to
No. 978/Pen 1/2

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Dated, Bangalore, the 30th March 1922

No. 3670

1921-1922

S 22

97-21

FROM

T. Satyaraj Chetty, Esq., B.A.,
~~M. N. KRISHNA RAO, ESQ., B.A.,~~
~~*Offg.*~~ *Comptroller to the Government of His Highness the Maharaja of Mysore.*

1 - APR 1922

To

M. N. Krishna Rao, Esq., B.A.,
Secretary to the Government of Mysore,
Financial Department.

SIR,

Adverting to your memo No.Fl.3603 dated 21st January 1922 forwarding for disposal a petition dated 10th January 1922 of Abdul Cureem, late a Duffedar of my office, requesting the grant of a gratuity, I have the honor to state that the applicant went on leave from 9th January 1922 and died on 12th January 1922. He has put in a qualifying service of 29 years, 8 months and 10 days and if he had been retired under Article 306 he would have been entitled to a gratuity of R$246-8-0 under Article 340 a (ii) Mysore Service Regulation.

Since his incapacity for further service has not been established by a Medical Certificate under Article 306 Mysore Service Regulation the case is submitted for orders of Government.

I may be permitted to state that this case is similar to that of Mastan Beig, a deceased Police Constable whose gratuity was sanctioned in G.O.No.Fl.71-2/S&A 179-19 dated 3-7-20.

The pension application and the petition received with your memo under reference are herewith forwarded.

I have the honor to be,
Sir,
Your most obedient servant,

T. Satyaraj Chetty

Comptroller.

WD.0322—GPB—3,000—14-12-16

C. O. 42–Rec.—17]

....Department

191

FROM

M. N. KRISHNA RAO, ESQ., B.A.,
Offg. Comptroller to the Govt. of
H.H. the Maharaja of Mysore.

To

.....Esq.,
Secretary to the Govt. of Mysore,
Dept.

Dated

Despatched

Received

No.....

Subject matter.

Proceedings of the Govt.of H.H.
the Maharaja of Mysore.

R e a d :-

1. Petition dated 10th January 1922 from Abdul Kareem, Duffedar of the Comptroller's Office, on sick leave, stating that he is very ill and unable to rejoin duty and praying for a reasonable gratuity.

2. Letter No.978/ Pen.dated 30th March 1922 from the Comptroller submitting his report on the above.

Order No. PC 1114-63
S.H 97-21-2
Dated Bangalore 30 August 22

The facts on the petitioner's case are as under :-

Abdul Kareem, Duffedar of the Comptroller's Office had put in a service of 29 years 8 months and 10 days, when on 9-1-22 he applied to the Comptr. for leave on account of illness. He submitted a petition to the Dewan Govt on the next day in which he stated that he was very unwell and that he did not expect to return to duty or survive his illness and requested that the gratuity admissible might be sanctioned to him. On the 12th of the same month he died.

2. The Comptroller reports that if the petitioner had been retired under Art.306 he would have been entitled to a gratuity of Rs.246-8-0 under Article 340 (a) (ii) of M.S.R. As however his incapacity for

14

further service was not established by a medical certificate under Art.306, the Comptr has submitted the case for the orders of Govt.

3. According to the Pension Regulations, the production of a medical certificate of permanent incapacity for public service and formal discharge by the authority concerned are the conditions necessary for the grant of an invalid gratuity. In this case there was discharge from duty when the man was relieved of it and allowed to go on leave. As for incapacity for further service the applicants death is itself the proof. established by his death. The requirements of the Regulations are complied with and the grant of gratuity in this case is therefore in accordance with the intention of the Pension Rules although the formalities prescribed have not been strictly observed.

4. After very carefully considering this and other similar cases which have occurred before and on which however orders issued have not been uniform, Government are pleased to direct that the following new articles may be introduced in the M.S.R. to regulate the grant of pension or gratuity in such cases.

" If an officer applies, while on leave of any kind taken on account of illness, for retirement on the ground of incapacity for further service and dies before producing the certificate prescribed in this section (Art.306) to support his request for retirement, his case will be dealt with as if he has produced such certificate, provided the Head of the Office certifies that he has no reason to believe that the applicant's illness or death was due to irregular or intemperate habits."

15

5. Government are also pleased to direct that the benefit of this order may be extended to the cases of the ~~two~~ two under-mentioned menials

₹ 6469 dt 27.4.21
₹ 4078 dt 17.2.22

1. Seeta Byra, Gollar, State Huzur Treasury.
2. Lakshmiah, Peon, Revenue Commrs' Office.

as the orders previously issued in their cases have not been in accordance with this order and whose cases are equally hard and call for similar considerations. This order supersedes ~~therefore~~ the orders previously issued in their cases as noted against each

6. Needful A & C. to M.S.R. will be separately issued.

mull 28/8/22

Financial Secretary to Govt.

mal
16/8

To

The Comptroller to Government with pension papers.
The Revenue Commissioner in Mysore.
The Other Heads of Departments.
The Secretaries to Govt.
The Deputy Commissioners of Districts.

GR
mk.

G. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

Nil [illegible]
A & b to M. S. R
V Eon

Art 306 Page 93.

Introduce the following as a new article 306 (A) :-

306 A.- If an officer applies, while on leave of any kind taken on account of illness, for retirement on the ground of incapacity for further service and dies before producing the certificate prescribed in this Section to support his request for retirement, his case will be dealt with as if he has produced such certificate, provided the head of the office certifies that he has no reason to believe that the applicant's illness or death was due to irregular or intemperate habits.

H Secy
Do. The Comptroller.
The Revenue Commr
12/8/22

WD 2839—GPB—1,00,000—23-7-30

Proceedings of the Government of His Highness
the Maharaja of Mysore.

Read :-

Petition dated 10th January 1922 from Abdul Kareem, Duffedar of the Comptroller's Office, on sick leave, stating that he is very ill and unable to rejoin duty and praying for a reasonable gratuity.

2. Letter No.978/Pen. dated 30th March 1922 from the Comptroller submitting his report on the above.

Order No.

Dated Bangalore the August 1922.

Abdul Kareem, Duffedar of the Comptroller's Office had put in a service of 29 years 6 months and 17 days on 9th January 1922 when he applied to the Comptroller for leave on account of illness. He submitted a petition to Government on the next day in which he stated that he was very unwell and that he did not expect to return to duty or survive his illness and requested that the gratuity admissible might be sanctioned to him. On the 15th of the same month he died.

2. The Comptroller reports that if the petitioner had been retired under article 306 he would have been entitled to a gratuity of Rs.246-8-0 under article 340 (a) (ii) of Mysore Service Regulations. As however his incapacity for further service has not been established by a medical certificate under article 306, the Comptroller has submitted the case for the orders of Government.

3. According to the pension regulations, the production of a medical certificate of permanent incapacity for further discharge by the authority concerned is necessary for

47

nd allowed to go on leave. As for incapacity for further service the applic nts do th is itself the proof. The requirements of the Regulations are complied with and the grant of gratuity in this case is therefore in accordance with the intention of the Pension rules although the formalities prescribed have not been strictly observed.

4. Government are pleased to direct that the following new articles may be introduced in the Mysore Service Regulations to regulate the grant of pension or gratuity in such cases.

" If an officer applies, while on leave of any kind taken on account of illness, for retirement on the ground of incapacity for further service and dies before producing the certificate prescribed in this section (article 396) to support his request for retirement, his case will be dealt with as if he had produced such certificate provided the Head of the Office certifies that he has no reason to believe that the applic nt's illness or death was due to irregular or intemperate habits. "

5. Government are also pleased to direct that the benefit of this order may be extended to the cases of the under-mentioned two persons. This order supersedes the orders previously issued in their cases as noted against each.

1. Seeta Byra, Collar, State Huzur Treasury.
   Fl.6439 dated 27th April 1921.
2. Lakshmiah, Peon, Revenue Commissioner's Office.
   Fl.4078 dated 17th February 1922.

6. Needful Addenda and Corrigenda to Mysore Service Regulations will issue separately.

Financial Secretary to Government.

To

The Comptroller to Government with pension papers.
The Revenue Commissioner in Mysore.
The Other Heads of Departments.
The Secretaries to Government.
The Deputy Commissioners of Districts.

LK.6.